

Panaji, 2nd February, 1978 (Magha 13, 1899)

SERIES I No. 44

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Law Department (Legal Advice)

Notification

LD/523/78

The following ordinance which was promulgated by the President of India on 16-1-78 is hereby re-published for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 30th January, 1978.

THE HIGH DENOMINATION BANK NOTES (DEMONETISATION) ORDINANCE, 1978

No. 1 of 1978

Promulgated by the President in the Twenty-eighth Year of the Republic of India.

An Ordinance to provide in the public interest for the demonetisation of certain high denomination bank notes and for matters connected therewith or incidental thereto.

WHEREAS the availability of high denomination bank notes facilitates the illicit transfer of money for financing transactions which are harmful to the national economy or which are for illegal purposes and it is therefore necessary in the public interest to demonetise high denomination bank notes;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*— (1) This Ordinance may be called the High Denomination Bank Notes (Demonetisation) Ordinance, 1978.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. *Definitions.*— In this Ordinance, unless the context otherwise requires,—

(a) “bank” means —

(i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(ii) the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955.

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.

(iv) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(v) a regional rural bank established under sub-section (1) of section 3 of the Regional Rural Banks Act, 1976; 21 of 1976.

(vi) a co-operative bank as defined in section 2 of the Reserve Bank of India Act, 1934, 2 of 1934.

and includes every branch thereof;

(b) “bank notes” means the bank notes issued by the Reserve Bank of India under section 22 of the Reserve Bank of India Act, 1934; 2 of 1934.

(c) “distinctive number” in relation to a high denomination bank note means the number including the alphabetical and numerical prefixes appearing on the face of the note;

(d) “high denomination bank note” means a bank note of the denominational value of one thousand rupees, five thousand rupees or ten thousand rupees, issued by the Reserve Bank;

(e) “public sector bank” means a bank referred to in sub-clause (ii), (iii) or (iv) of clause (a);

(f) “Reserve Bank” means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934; 2 of 1934.

(g) “Scheduled bank” means a public sector bank or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934; 2 of 1934.

(h) “State Bank” means the State Bank of India constituted under the State Bank of India Act, 1955. 23 of 1955.

3. *High denomination bank notes to cease to be legal tender.* — On the expiry of the 16th day of January, 1978, all high denomination bank notes shall, notwithstanding anything contained in section 26 of the Reserve Bank of India Act, 1934, 2 of 1934, cease to be legal tender in payment or on account at any place.

4. *Prohibition of transfer and receipt of high denomination bank notes.* — Save as provided by or under this Ordinance, no person shall, after the 16th day of January, 1978, transfer to the possession of another person or receive into his possession from another person any high denomination bank note.

5. *Declaration of high denomination bank notes by banks and Government treasuries.* — (1) Every bank and Government treasury shall prepare and send to the Reserve Bank in the manner provided in this section a return showing separately under each denominational value the total value of high denomination bank notes of that value held by it at the close of business on the 16th day of January, 1978 and the distinctive numbers of high denomination bank notes of that value:

Provided that a bank or a Government treasury in which the currency chest of the Issue Department of the Reserve Bank has been established shall also submit a separate return showing separately under each denominational value the total value of high denomination bank notes held in such currency chest at the close of business on the 16th day of January, 1978 and the distinctive numbers of high denomination bank notes of that value.

(2) Every such return shall be prepared and presented as provided in sub-section (3) in triplicate and shall be signed by the Manager of the bank or other person in charge of the bank or the Government treasury.

(3) Every such return under sub-section (1) shall be presented for forwarding to the Reserve Bank to the Manager of the sub-office, office or branch of the Reserve Bank at the places specified under sub-section (2) of section 7, or to the District Magistrate, or to the Sub Divisional Magistrate or, if such Manager or Magistrate is not available, to the senior-most Revenue or Police Officer available not later than 3.00 p. m. on the 17th day of January, 1978:

Provided that if it is not feasible to present the return to any such person as aforesaid, it may be presented by handing two copies thereof not later than 3.00 p. m. on the 17th day of January, 1978 to a telegraph office, one copy for despatch by express telegram to the Reserve Bank at Bombay at the expense of the bank or the Government treasury as the case may be, and the other copy for return to the person presenting it in the manner provided in sub-section (4), and by despatching the third copy required by sub-section (2) by registered post on the same day to the Reserve Bank at Bombay.

(4) The officer to whom the return is presented shall give back to the person presenting it one copy thereof under his signature and seal of office in acknowledgement of receipt on which shall also be recorded the time and date of receipt, and such officer shall without delay forward one copy of the return to the Reserve Bank at Bombay.

(5) The Manager or other person in charge of every bank or Government treasury shall, immediately after the preparation of the returns required to be submitted under this section, cause the high denomination bank notes mentioned therein to be kept in a separate receptacle and seal the same with his seal and of the officers having custody of such receptacle.

6. *Exchange of high denomination bank notes held by banks and Government treasuries.* — (1) A bank other than a public sector bank may obtain from the Reserve Bank or a public sector bank an equivalent amount in exchange for the high denomination bank notes declared by it in the return referred to in section 5 by credit to an account maintained with the Reserve Bank or a public sector bank or in bank notes.

(2) A public sector bank may obtain from the Reserve Bank an equivalent amount in exchange for the high denomination bank notes declared by it in the return referred to in section 5 or the high denomination bank notes received by it in exchange under sub-section (1) by credit to an account with the Reserve Bank or in bank notes.

(3) A Government treasury may obtain from the Reserve Bank an equivalent amount in exchange for the high denomination bank notes declared by it in the return referred to in section 5 in bank notes or by credit to Government account.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), where the return referred to in section 5 is presented in the manner provided in the proviso to sub-section (3) of that section, the exchange referred to in this section may be effected only by the Reserve Bank at Bombay.

(5) Every application for the exchange of high denomination bank notes under this section shall be accompanied by the copy of the return received under sub-section (4) of section 5 which contains the distinctive numbers of such bank notes.

7. *Exchange of high denomination bank notes held by other persons.* — (1) Notwithstanding anything to the contrary contained in the Reserve Bank of India Act, 1934, any high denomination bank note owned by a person other than a bank or Government treasury may be exchanged after the 16th day of January, 1978, only on tender of the note — 2 of 1934.

(a) where the high denomination bank note is owned by an individual, by the individual himself; or where the individual is absent from India, by the individual concerned or some person duly authorised by him in this behalf; or where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) where the high denomination bank note is owned by a Hindu undivided family, by the *karta*, and, where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of his family;

(c) where the high denomination bank note is owned by a company, by the managing director thereof, or, where for any unavoidable reason such managing director is not able to tender the note,

or where there is no managing director, by any director thereof;

(d) where the high denomination bank note forms part of the assets of a firm, by the managing partner thereof, or, where for any unavoidable reason such partner is not able to tender the note, or where there is no managing partner as such, by any partner thereof not being a minor;

(e) where the high denomination bank note is owned by any other association of persons, by any member of the association or the principal officer thereof; and

(f) where the high denomination bank note is owned by any other person, by that person or by some person competent to act on his behalf;

and within the time and in the manner provided in this section.

(2) Every person desiring to tender for exchange a high denomination bank note under this section shall prepare in the form set out in the Schedule three copies of a declaration signed by him giving in full the particulars required by that form and shall, not later than the 19th day of January, 1978, deliver such copies in person together with the high denomination bank notes he desires to exchange —

(a) to either of the offices of the Reserve Bank at Bombay or to the sub-office, office or branch, as the case may be, of that bank at Ahmedabad, Bangalore, Bhubaneswar, Calcutta, Gauhati, Hyderabad, Jaipur, Kanpur, Madras, Nagpur, New Delhi and Patna; or

(b) to the main office or branch of the State Bank at the headquarters of a district; or

(c) to any other office of a public sector bank notified in this behalf by the Reserve Bank:

Provided that if such person resides in a place not within convenient reach of any such office or branch, or if, by reason of age, infirmity or illness he is unable to attend thereat, he may forward the high denomination bank notes he desires to exchange together with three copies of the declaration in respect thereof by insured post to the Reserve Bank at Bombay not later than the 19th day of January, 1978.

(3) Every declaration under this section shall, for the purpose of identifying the person making it, be attested by the manager or other person in charge of the bank, if any, with which he maintains an account, or by a salaried Magistrate or a Justice of the Peace or a police officer not below the rank of an Inspector of Police.

(4) Unless it appears that the declaration has not been complete in all material particulars, the Reserve Bank, the State Bank or any bank notified under clause (c) of sub-section (2), as the case may be, to which an application for exchange of high denomination bank notes is made under this section, shall pay the exchange value of the said notes for credit to a properly introduced account of the owner or the declarant, as the case may be, with any scheduled bank:

Provided that if the owner or declarant, as the case may be, does not have a bank account, the exchange value of the said notes shall be paid only on proper identification and until payment is so made, the amount shall remain in the custody of the

Reserve Bank or the bank, as the case may be, to which the high denomination bank notes were tendered.

(5) Where it appears that the declaration has not been completed in all material particulars, the Reserve Bank, the State Bank or the notified bank, as the case may be, to which such application as aforesaid is made shall, unless the declarant is able to supply the omission without delay, refuse to accept and pay for the bank notes to which the declaration relates, and where it does so refuse, shall return one copy of the declaration to the declarant after entering therein the date on which it is presented and shall refer the matter to the Central Government to which it shall forward a copy of the declaration with a brief statement of the reasons for refusing to pay for the bank notes.

(6) The Central Government may require any declarant referred to in sub-section (5) to amplify his declaration to such extent and in respect of such particulars as it thinks fit and may, unless the declarant is able to fully comply with such requirement, refuse, for reasons to be recorded in writing, to sanction the exchange of the high denomination bank notes to which the declaration relates.

(7) The Central Government or any person or authority authorised by it in this behalf may, by order in writing and for reasons to be recorded therein, extend in any case or class of cases the period during which high denomination bank notes may be tendered for exchange under this section.

8. *Exchange of notes after the time limit specified in section 7.* — (1) Notwithstanding anything contained in section 7, any person who fails to apply for exchange of any high denomination bank notes within the time provided in that section may tender the notes together with the declaration required under that section to the Reserve Bank at any of the places specified in clause (a) of sub-section (2) of that section, not later than the 24th day of January, 1978 together with a statement explaining the reasons for his failure to apply within the said time limit.

(2) The Reserve Bank may, if satisfied after making such inquiries at it may consider necessary that the reasons for the failure to submit the notes for exchange within the time provided in section 7 are genuine, pay the value of the notes in the manner specified in sub-section (4) of that section.

(3) Any person aggrieved by the refusal of the Reserve Bank to pay the value of the notes under sub-section (2) may prefer an appeal to the Central Government within fourteen days of the communication of such refusal to him.

9. *Closing of banks and Government treasuries.* —

(1) All banks and Government treasuries shall be closed on the 17th day of January, 1978 for the transaction of all business except the preparation and presentation or, as the case may be, receipt of the returns referred to in section 5.

(2) Subject to the provisions of sub-section (1), the 17th day of January, 1978 shall, for the purposes of the Negotiable Instruments Act, 1881, be deemed to be a public holiday notified under that Act.

10. *Penalties.*— (1) If any bank fails to prepare and present within the time and in the manner provided by section 5 any return referred to in that section, or presents any return under that section which is false in any material particular, the manager or other person in charge of the bank shall, unless he proves that the failure took place, or the false return was presented, without his knowledge or that he exercised all due diligence to prevent the same, be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(2) Whoever knowingly makes in any declaration under section 7 any statement which is false or only partially true or which he does not believe to be true or contravenes any provision of this Ordinance or the rules made thereunder shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) An officer of a scheduled bank who makes payment out of the amount, being the exchange value of a high denomination note credited under sub-section (4) of section 7 to an account maintained with such bank shall, unless such account is an account which has been opened after proper introduction, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

11. *Special provisions relating to offences.*— (1) No prosecution for an offence punishable under this Ordinance shall be instituted except with the previous sanction of the Central Government.

(2) Notwithstanding anything in section 29 of the Code of Criminal Procedure, 1973, the court of a Magistrate of the first class or the court of a Metropolitan Magistrate trying an offence punishable under this Ordinance may impose a fine exceeding five thousand rupees.

12. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or Reserve Bank or any public sector bank or any officer of such bank for anything done or intended to be done in good faith under this Ordinance.

13. *Removal of difficulties.*— If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by notification in the Official Gazette, make any order, not inconsistent with the provisions of this Ordinance, which appears to it to be necessary for the purpose of removing the difficulty:

Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

14. *Power to make rules.*— (1) The Central Government may make rules for giving effect to the provisions of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry

of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 7(2)]

Form of Declaration

(To be filed in triplicate)

1. Name of the owner of the bank notes (in block letters)
 2. Address: Office
Residence
 3. Status, i.e., whether individual, Hindu undivided family, company, firm, etc.
 4. (a) Whether assessed to income-tax;
(b) If so, name of the Income-Tax Circle/Ward/District where last assessed;
(c) Permanent Account Number.
 5. If engaged in business, profession or vocation, name in which such business is carried on
 6. Principal place of business, profession or vocation, and location and style of each branch.
 7. In the case of a firm, name and address of each partner.
 8. In the case of a partner in a firm, name and address of each firm or firms in which he is a partner.
 9. In the case of a salaried person, amount of salary per annum.
 10. In the case of a Government employee, Government Department and post held.
 11. In the case of a retired Government employee, last post held, Government Department under which such post was held and date of retirement.
 12. In the case of a retired employee of a non-Government employer, particulars of last post held.
 13. In the case of any other person, particulars of profession or vocation or as the case may be, former profession or vocation.
 14. Particulars of high denomination bank notes tendered
- | Denomination | Number of Notes | Distinctive Numbers* | Total value |
|--------------|-----------------|----------------------|-------------|
| Rs. 1000 | | | |
| Rs. 5000 | | | |
| Rs. 10000 | | | |

Rs.	Rupees (in words)
-----	----------------------

*Distinctive numbers of bank notes tendered should be furnished indicating alphabetical and numerical prefixes of the notes. Attach a statement if space is not adequate.

15. Reasons for keeping the amount in cash in notes of such high denominations.
16. When and from what source did the bank notes come into possession?
17. If any of the notes tendered represent borrowings, the name(s) and address(es) of the persons from whom borrowed and the dates on which borrowed.
18. Manner in which payment of value of the bank notes is desired; i.e. in cash or payment to bank etc.
19. If payment is to be made into a bank account, full details of the bank account.
20. Has any other declaration been made in respect of other bank notes of the owner? If so, state full particulars.
21. If the declarant is not the owner of the bank notes, capacity in which declaration is signed.

I, , son/daughter/wife of
 (name in block letters) (name
 hereby solemnly declare that the parti-
 of father/husband)
 culars furnished above are full, true and correct to the best
 of my knowledge and belief. I further declare that the bank
 notes tendered herewith belong to me/to
 (name of owner of
 bank notes)

..... and are not held *benami*.

I also solemnly affirm that I have
 not filed any other declaration under this Ordinance.

..... filed another/other declaration(s) as per particulars attached.

I further declare that I am making this declaration in my
 capacity as and that I am competent to
 designation, etc.
 make this declaration and verify it.

Place: ...

Date: ...

.....
 (Signature of declarant)

I, hereby testify that I know the
 (name in block letters)
 declarant and certify that the above declaration was signed
 in my presence.

Place: ...

Date: ...

.....
 (Signature and Designation)

SEAL

PRESIDENT

Notification

LD/288/78

The following Central Act, The Motor Vehicles
 (Amendment) Act, 1977 which was recently passed
 by the Parliament and assented to by the President
 of India on 3-8-1977 and published in the Gazette of
 India Part II, Section I dated 3-8-1977 is hereby re-
 published for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 19th January, 1978.

The Motor Vehicles (Amendment) Act, 1977

No. 27 of 1977

[3rd August, 1977]

AN

ACT

further to amend the Motor Vehicles Act, 1939.

Be it enacted by Parliament in the Twenty-eighth
 Year of the Republic of India as follows: —

1. *Short title and commencement.* — (1) This Act
 may be called the Motor Vehicles (Amendment) Act,
 1977.

(2) It shall come into force on such
 date as the Central Government may, by
 notification in the Official Gazette,
 appoint and different dates may be ap-
 pointed for different provisions of this
 Act.

4 of 1939.

2. *Amendment of section 7.* — In section 7 of the
 Motor Vehicles Act, 1939 (hereinafter referred to
 as the principal Act), in sub-section (8), for the
 words “a fee of eleven rupees”, the words “such fee
 as the Central Government may, “by rules made
 under this Act, specify” shall be substituted.

3. *Amendment of section 11.* — In section 11 of the
 principal Act, —

(i) in sub-section (3), for the words “nine
 rupees”, the words “the amount specified in the
 rules made by the Central Government in this
 behalf” shall be substituted;

(ii) in sub-section (3A), for the words “eleven
 rupees”, the words “the amount specified in the
 rules made by the Central Government in this
 behalf” shall be substituted.

4. *Amendment of section 17.* — In section 17 of the
 principal Act, in sub-section (5), in the proviso, for
 the words, brackets and letters “in the cases referred
 to in clauses (a) and (b), two years”, the words,
 brackets and letters “in the case referred to in
 clause (a), five years, or, in the case referred to in
 clause (b), two years” shall be substituted.

5. *Insertion of new sections 17A and 17B.* — After
 section 17 of the principal Act, the following sections
 shall be inserted, namely: —

‘17A. *Suspension of driving licence in certain
 cases.* — (1) Where, in relation to a person who
 had been previously convicted of an offence
 punishable under section 116, a case is registered
 by a police officer on the allegation that such
 person has by such reckless or dangerous driving
 as is referred to in the said section 116, caused
 the death of, or grievous hurt to, one or more
 persons, the driving licence held by such person
 shall become, and shall remain, suspended —

(a) for a period of six months from the date
 on which the case is registered, or

(b) if such person is discharged or acquitted
 before the expiry of the period aforesaid, until
 such discharge or acquittal, as the case may be.

(2) Where by virtue of the provisions of sub-
 section (1), the driving licence held by a person
 becomes suspended, the police officer, by whom
 the case referred to in sub-section (1) is regis-
 tered, shall bring such suspension to the notice of
 the Court competent to take cognizance of such
 offence, and, thereupon, such Court shall take
 possession of the driving licence, endorse the sus-
 pension thereon and forward it to the licensing
 authority by which it was granted or last renewed
 and that authority shall, on receipt of the driving
 licence, keep it in its safe custody until the expiry
 of the period of suspension, or, as the case may
 be, until the holder of the licence is discharged or
 acquitted by the Court trying the offence and
 shall, on such expiry or discharge or acquittal, as
 the case may be, return the licence to the holder
 thereof on an application made by him for such
 return:

Provided that no such licence shall be returned
 unless the holder thereof has, after such expiry,
 discharged or acquittal, undergone and passed, to
 the satisfaction of the licensing authority by
 which the licence was issued or last renewed, a

fresh test of competence to drive specified in the Third Schedule.

(3) Where the person referred to in sub-section (1) is acquitted or discharged, the Court competent to take cognizance of the offence referred to in sub-section (1) shall, on the application of the holder of the driving licence, cancel the endorsement thereon with regard to the suspension of such driving licence.

(4) If a licence to drive a particular class or description of motor vehicles is suspended under sub-section (1), the person holding such licence shall be debarred from holding or obtaining any licence to drive such particular class or description of motor vehicles so long as the suspension of the driving licence remains in force.

17B. *Suspension or cancellation of driving licence on conviction.*—(1) Without prejudice to the provisions of sub-section (5) of section 17, where a person, referred to in sub-section (1) of section 17A, is convicted of an offence of causing, by such reckless or dangerous driving as is referred to in section 116, the death of, or grievous hurt to, one or more persons, the Court, trying such person on such charge, may cancel, or suspend for such period as it may think fit, the driving licence held by such person.

(2) Without prejudice to the provisions of sub-section (3) of section 17, if a person, having been previously convicted of an offence punishable under section 117, is again convicted of an offence punishable under that section, the Court, making such subsequent conviction, shall, by order, cancel the driving licence held by such person.

(3) If a driving licence is cancelled or suspended under this section, the Court shall take the driving licence in its custody, endorse the cancellation or, as the case may be, suspension, thereon and send the driving licence so cancelled or endorsed to the authority by which the licence was issued or last renewed and such authority shall, on receipt of the licence, keep the licence in its custody, and in the case of a suspended licence, return the licence to the holder thereof after the expiry of the period of suspension on an application made by him for such return:

Provided that no such licence shall be returned unless the holder thereof has, after the expiry of the period of suspension, undergone and passed, to the satisfaction of the licensing authority by which the licence was issued or last renewed, a fresh test of competence to drive specified in the Third Schedule.

(4) If a licence to drive a particular class or description of motor vehicles is suspended or cancelled under this section, the person holding such a licence shall be debarred from holding, or obtaining, any licence to drive such particular class or description of motor vehicles so long as the suspension or cancellation of the driving licence remains in force.

Explanation.—For the purposes of this section, “Court making the conviction” means the Court by which the final order of conviction is made.’

6. *Insertion of new section 20A.*—After section 20 of the principal Act, the following section shall be inserted, namely:—

“20A. *Power of Central Government to make rules.*—The Central Government may, by notification in the Official Gazette, make rules specifying the fees payable under sub-section (8) of section 7 and sub-sections (3) and (3A) of section 11 for the grant or renewal of driving licences.”

7. *Amendment of section 63.*—In section 63 of the principal Act,—

(1) in sub-section (7), for the words “in respect of tourist vehicles such number of permits valid for the whole or any part of India”, the words “permits valid for the whole or any part of India, in respect of such number of tourist vehicles” shall be substituted;

(2) in sub-section (11)—

(a) for the words “grant to public carriers in a State such number of national permits”, the words “grant, in a State, national permits to the owners of motor vehicles who use, or intend to use, such vehicles for the carriage of goods, for hire or reward, in respect of such number of motor vehicles” shall be substituted;

(b) in the *Explanation*, in clause (a)—

(i) for the words “to a public carrier authorising him to operate as a public carrier”, the words “to the owner of a motor vehicle authorising him to operate as a public carrier” shall be substituted;

(ii) for the words “indicated by the public carrier”, the words “indicated by such owner” shall be substituted.

8. *Insertion of new section 85A.*—After section 85 of the principal Act, the following section shall be inserted, namely:—

‘85A. *Wearing of protective headgear.*—Every person driving or riding (otherwise than in a side car) on a motor cycle of any class shall, while in a public place, wear a protective headgear of such description as may be specified by the Central Government by rules made by it in this behalf, and different descriptions of headgears may be specified in such rules in relation to different circumstances or different class of motor cycles:

Provided that the provisions of this section shall not apply to a person who is a Sikh, if he is, while driving or riding on the motor cycle, in a public place, wearing a turban:

Provided further that the Central Government may, by such rules, provide for such exceptions as it may think fit.

Explanation.—“Protective headgear” means a helmet which,—

(a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motor cycle a degree of protection from injury in the event of an accident; and

(b) is securely fastened to the head of the wearer by means of the straps or other fastenings provided on the headgear.’

9. *Substitution of section 117.*—For section 117 of the principal Act, the following section shall be substituted, namely:—

“117. *Driving by a drunken person or by a person under the influence of drugs.*—Whoever, while driving, or attempting to drive, a motor vehicle or riding or attempting to ride, a motor cycle,—

(a) has, in his blood, alcohol in any quantity, howsoever small the quantity may be, or

(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle,

shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both.

Explanation.—For the purposes of this section, the drug or drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle.”

10. *Insertion of new sections 128A, 128B and 128C.*—After section 128 of the principal Act, the following sections shall be inserted, namely:—

‘128A. *Breath tests.*—(1) A police officer in uniform may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more specimens of breath for breath test there or nearby, if the police officer has any reasonable cause—

(a) to suspect him of having alcohol in any quantity in his body, or

(b) to suspect him of having committed an offence punishable under section 117:

Provided that no requirement for breath test shall be made unless it is made as soon as reasonably practicable after the commission of such offence.

(2) If a motor vehicle is involved in an accident in a public place and a police officer in uniform has any reasonable cause to suspect that the person who was driving or attempting to drive the motor vehicle at the time of the accident, had alcohol in his blood or urine or that he was driving under the influence of a drug referred to in section 117, he may require the person so driving or attempting to drive the motor vehicle, to provide a specimen of his breath for a breath test—

(a) in the case of a person who is at a hospital as an indoor patient, at the hospital,

(b) in the case of any other person, either at or near the place where the requirement is made, or, if the police officer thinks fit, at a police station specified by the police officer:

Provided that a person shall not be required to provide such a specimen while at a hospital

as an indoor patient if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of a specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient.

(3) If it appears to a police officer in uniform, in consequence of a breath test carried out by him on any person under sub-section (1) or sub-section (2), that the device by means of which the test has been carried out indicates the presence of alcohol in the person's blood, the police officer may arrest that person without warrant except while that person is at a hospital as an indoor patient.

(4) If a person, required by a police officer under sub-section (1) or sub-section (2) to provide a specimen of breath for a breath test, refuses or fails to do so and the police officer has reasonable cause to suspect him of having alcohol in his blood or urine, the police officer may arrest him without warrant except while he is at a hospital as an indoor patient.

(5) A person arrested under this section shall, while at a police station, be given an opportunity to provide a specimen of breath for a breath test there.

(6) The results of a breath test made in pursuance of the provisions of this section shall be admissible in evidence.

Explanation.—For the purposes of this section, “breath test” means a test for the purpose of obtaining an indication of the presence of alcohol in a person's blood carried out, on one or more specimens of breath provided by that person, by means of a device of a type approved by the Central Government, by notification in the Official Gazette, for the purpose of such a test.

128B. *Laboratory test.*—(1) A person, who has been arrested under section 128A, may, while at a police station, be required by a police officer to provide, to such registered medical practitioner as may be produced by such police officer, a specimen of his blood or urine for a laboratory test if,—

(a) it appears to the police officer that the device, by means of which breath test was taken in relation to such person, indicates the presence of alcohol in the blood of such person, or

(b) such person, when given the opportunity to submit to a breath test, has refused, omitted or failed to do so:

Provided that where the person required to provide such specimen is a female and the registered medical practitioner produced by such police officer is a male medical practitioner, the specimen shall be taken only in the presence of a female, whether a medical practitioner or not.

(2) A person while at a hospital as an indoor patient may be required by a police officer to provide at the hospital a specimen of his blood or urine for a laboratory test—

(a) if it appears to the police officer that the device by means of which test is carried out in relation to the breath of such person indicates

the presence of alcohol in the blood of such person, or

(b) if that person having been required, whether at the hospital or elsewhere, to provide a specimen of breath for a breath test, has refused, omitted or failed to do so and a police officer has reasonable cause to suspect him of having alcohol in his blood:

Provided that a person shall not be required to provide a specimen of his blood or urine for a laboratory test under this sub-section if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of such specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient.

(3) The results of a laboratory test made in pursuance of this section shall be admissible in evidence.

Explanation. — For the purposes of this section, “laboratory test” means the analysis of a specimen of blood or of urine made at a laboratory established, maintained or recognised by the Central Government or a State Government.

128C. *Presumption of unfitness to drive.* — In any proceeding for an offence punishable under section 117, if it is proved that the accused, when requested by a police officer at any time so to do, had refused, omitted or failed to consent to the taking of or providing a specimen of his breath for a breath test or a specimen of his blood or urine for a laboratory test, his refusal, omission or failure may, unless reasonable cause therefor is shown, be presumed to be a circumstance supporting any evidence given on behalf of the prosecution, or rebutting any evidence given on behalf of the defence, with respect to his condition at that time.

11. *Amendment of First Schedule.* — In the First Schedule to the principal Act, —

(i) in Form A —

(a) in Part III, in paragraph (h), for the figures and word “84 and 85”, the figures, word and letter “84, 85 and 85A” shall be substituted;

(b) the “Note”, appearing after the words “Signature or thumb impression of applicant”, shall be omitted;

(ii) in Form B, in section 11, as reproduced under the heading “(Reverse)”, —

(a) in sub-section (1), after the proviso, the following further proviso shall be inserted, namely: —

“Provided further that where the application is for the renewal of a licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, the same shall be accompanied by a fresh medical certificate in Form C as set forth in the First Schedule, signed by a registered medical practitioner, and the provisions of sub-section (5) of section 7 shall apply to every such case.”;

(b) in sub-section (3), for the words “nine rupees”, the words “the amount specified in the rules made by the Central Government in this behalf” shall be substituted;

(c) in sub-section (3A), for the words “eleven rupees”, the words “the amount specified in the rules made by the Central Government in this behalf” shall be substituted;

(d) after sub-section (3A), the following sub-section shall be inserted, namely: —

“(3B) When the authority to whom an application for the renewal of a licence to drive as a paid employee or to drive a transport vehicle is made, is not the authority which issued the licence sought to be renewed, it may, for the purpose of deciding whether the application for such renewal may be granted, verify the antecedents of the applicant in such manner as may be prescribed and pending the verification, such authority may grant a provisional licence for such period or periods not exceeding six months in the aggregate, subject to the condition that every such provisional licence shall cease to be effective immediately on the renewal of the licence sought to be renewed, or, as the case may be, on the refusal to renew the licence, and

(i) where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed;

(ii) where the application for renewal has not been rejected within the said period, the licence shall be renewed.”.

12. *Amendment of Sixth Schedule.* — In the Sixth Schedule to the principal Act —

(1) in the entries in column 2, —

(a) against “Andhra Pradesh”, after the letters “AA”, the letters “AD, AT” shall be inserted;

(b) against “Assam”, after the letters “AS”, the letters “AM” shall be inserted;

(c) against “Bihar”, after the letters “BH”, the letters “BP” shall be inserted;

(d) against “Gujarat”, after the letters “GT”, the letters “GR” shall be inserted;

(e) against “Haryana”, after the letters “HY”, the letters “HN” shall be inserted;

(f) against “Jammu and Kashmir”, after the letters “JK”, the letters “KM” shall be inserted;

(g) against “Kerala”, after the letters “KL”, the letters “KE” shall be inserted;

(h) against “Madhya Pradesh”, after the letters “CP”, the letters “MB” shall be inserted;

(i) against “Maharashtra”, after the letters “MH”, the letters “MX, MW, MZ” shall be inserted;

(j) against “Punjab”, after the letters “PU”, the letters “PB, PJ” shall be inserted;

(k) against “Uttar Pradesh”, after the letters “UT”, the letters “UR” shall be inserted;

(l) against “West Bengal”, after the letters “WM”, the letters “WN” shall be inserted;

(m) against "Delhi", after the letters "DH" the letters "DE, DI" shall be inserted;

(2) after the entries in columns 1 and 2 in relation to the State of Rajasthan, the following respective entries shall be inserted, namely:—
"Sikkim ... SK, SS".

13. *Amendment of Eighth Schedule.*—In the Eighth Schedule to the principal Act, against

(a) in sub-item (a), the words "or a motor cycle" shall be omitted;

(b) after sub-item (a), the following sub-item shall be inserted, namely:—

"(aa) if the vehicle is a motor cycle.....50.

Note — Endeavour shall be made to enforce the speed limit specified in this sub-item by inserting in the motor cycle such device, like a governor or the like, which would ensure that the motor cycle cannot be ridden at a speed faster than the speed specified in this sub-item."

K. K. SUNDARAM,
Secy. to the Govt. of India.

Notification

LD/391/78

The following Notification received from the Government of India, Ministry of Shipping and Transport New Delhi is hereby republished for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 23rd January, 1978.

GOVERNMENT OF INDIA

(BHARAT SARKAR)

MINISTRY OF SHIPPING AND TRANSPORT

(NAUVAHAN AUR PARIVAHAN MANTRALAYA)

(Transport Wing/Parivahan Paksha)

Notification

PEG(42)/77

New Delhi, the 11th January, 1978

G. S. R. No. — In exercise of the powers conferred by sub-section (1) of section 124 read with sub-section (1) of section 132 of the Major Port Trusts Act, 1963 (38 of 1963), the Central Government hereby approve of "the Mormugao Port Employees' (Contributory Provident Fund Special Contribution) (Amendment) Regulations, 1977" made by the Board of Trustees of the Port of Mormugao in exercise of the powers conferred by section 28 read with sub-section (2) of section 124 of the said Act

and published in the Goa, Daman and Diu Government Gazette dated the 3rd and 11th November, 1977.

(D. C. AHIR)

Under Secy. to the Govt. of India.

Notification

LD/393/78

The following Notification received from the Government of India, Ministry of Labour New Delhi is hereby republished for general information of the public.

B. S. Subbanna, Under Secretary (Law).

Panaji, 24th January, 1978.

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

New Delhi, 5th January, 1978

Notification

S. O. — The following draft of a notification which the Central Government proposes to make, in exercise of the powers conferred by sub-section (2) of section 26 of the Minimum Wages Act, 1948 (11 of 1948) is hereby published for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the expiry of *two months from the date of publication of this notification in the Official Gazette.*

Any objections or suggestions which may be received from any person in respect of the said draft, before the *expiry of the said period of two months*, will be considered by the Central Government.

DRAFT NOTIFICATION

In exercise of the powers conferred by sub-section (2) of section 26 of the Minimum Wages Act, 1948 (11 of 1948), the Central Government hereby directs that for a period of five years from the date of publication of this notification, in the Official Gazette, the provisions of sections 12, 13, 14 and 18 of the said Act shall not apply to railway servants who are on time scales of pay approved by the Central Government and governed by the provisions of Chapter VIA of the Indian Railways Act, 1890 (9 of 1890) and the Indian Railways Establishment Code and who are employed in any Scheduled employment in Railways.

Sd/-

(HANS RAJ CHHABRA)

(Deputy Secretary)

[No. S-32014(2)/77-WC(MW)]